

ORIGINAL

FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX
FT. WORTH DIVISION

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**
(Ft. Worth Division)

2012 OCT 18 AM 11:36

CLERK OF COURT

MAYFORD K. DAVIS, JR., individually)
and as a private attorney general on behalf)
of others similarly situated;)
Plaintiff)

4-12CV-739-A
CASE NO. _____

v.)

JUDGE _____

ROBERT LEAVITT, CHAIRMAN)
AND GENERAL SERVICE BUREAU,)
Defendants)

TRIAL BY JURY DEMANDED

**ORIGINAL COMPLAINT FOR VIOLATIONS OF
FCRA, 15 U.S.C. § 1681 and FDCPA, 15 U.S.C. § 1692**

Plaintiff, MAYFORD K. DAVIS, JR., individually and as a private attorney general on
behalf of others similarly situated hereby brings this lawsuit against Defendants, ROBERT
LEAVITT and GENERAL SERVICE BUREAU.

JURISDICTION AND VENUE

1. The jurisdiction of the Court is conferred by 15 U.S.C. § 1681p and 28 U.S.C. § 1331.
2. Venue is proper in this District Court pursuant to 28 U.S.C. § 1391.
3. Venue is proper in the UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS (Ft. Worth Division).
4. This is an action for damages which is less than \$40,000.
5. All conditions precedent to the bringing of this action have been performed, waived, or
excused.

6. Discovery of this these violations brought before this Court occurred within the statute of limitations as defined in FCRA, 15 U.S.C. § 1681p(1) and (2) as well as FDCPA 15 U.S.C. § 1692k(d).

PARTIES

7. The Plaintiff in this lawsuit is MAYFORD K. DAVIS, JR., a natural man, who resides in Parker County, Texas.

8. The Defendants in this lawsuit are ROBERT LEAVITT, CHAIRMAN OF THE BOARD and GENERAL SERVICE BUREAU with an address of 5807 North 102nd Street, Omaha, Nebraska 68134 and a telephone number of (402) 255-5025.

PRELIMINARY STATEMENT

9. This is an action for damages for violations of the Fair Credit Reporting Act (FCRA) 15 U.S.C. § 1681 and the Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692.

10. Plaintiff contends that the Defendants, a debt collection agency, have violated said laws by obtaining Plaintiff's consumer credit reports illegally, knowingly reporting false and inaccurate information to the credit reporting agencies, and not having a permissible purpose for obtaining Plaintiff's consumer credit reports..

11. Upon belief and information, Plaintiff contends that these practices are widespread by said Defendants. Therefore, Plaintiff is suing as a private attorney general on behalf of all others similarly situated. Plaintiff intends to **propound discovery** to said Defendants identifying these other individuals who have suffered similar violations.

1 Plaintiff intends to seek attorney's fees from said Defendants, ROBERT LEAVITT and
2 GENERAL SERVICE BUREAU, as a private attorney general. (The "private attorney
3 general" concept holds that a successful private party plaintiff is entitled to recovery of
4 his legal expenses, including attorney fees, if he has advanced the policy inherent in
5 public interest legislation on behalf of a significant class of persons. Dasher v.
6 Housing Authority of City of Atlanta, GA, D.C.Ga., 64 F.R.D. 720, 722. See also
7 Equal Access to Justice Act.)

8 FACTUAL ALLEGATIONS

- 9
- 10 12. On or about **May 17, 2011** Plaintiff obtained his consumer credit report from the credit
11 reporting agencies Equifax, TransUnion, and Experian. Plaintiff found entries on these
12 reports that were unknown and/or not authorized by the Plaintiff.
- 13
- 14 13. Plaintiff discovered after examining the consumer credit reports that the Defendants
15 had obtained his consumer credit report **twice** from **TransUnion** credit reporting
16 agency on or about **October 2007**.
- 17
- 18 14. Plaintiff discovered after examining the consumer credit report from **Experian** that the
19 Defendants had obtained his consumer credit report **twice** on or about **January 2008**.
- 20
- 21 15. Plaintiff discovered after examining his **Equifax** consumer credit report that the
22 Defendants had obtained his consumer credit report **twice** on or about **December 2009**.
- 23
- 24 16. On or about **July 24, 2012** Plaintiff sent by certified mail (# 7011 2000 0001 1928
25 3423) a letter regarding Intent to Sue. The letter was received by said Defendants
26 according to the USPS records at 10:53 am on **July 27, 2012**. The letter was an
27 attempt to mitigate the damages without proceeding with a federal lawsuit.
28

1 17. On or about **August 2, 2012** Plaintiff received a letter from Defendants denying that
2 they had obtained the Plaintiff's consumer credit reports.

3 18. On or about **August 8, 2012** Plaintiff sent to the said Defendants a certified letter (#
4 7010 1670 0002 5084 7888) regarding a Notice Of Pending Lawsuit. With the letter
5 was a draft of the federal lawsuit that would be filed if the Defendants failed to
6 **honorably settle the matter and to mitigate the damages.** Also included with the
7 letter and draft of the lawsuit was a copy of Page 6 of 14 from the **Experian** consumer
8 credit report as verified proof of some of the allegations.

9 19. At no time did Defendants ever indicate what justification they may have had for
10 obtaining Plaintiff's consumer credit report. The Defendants had a duty to properly
11 ascertain if there was any legitimate permissible purpose before obtaining Plaintiff's
12 consumer credit report and Defendants **breached said duty** by failing to do so. There
13 was no account that the Defendants had any right to collect to have had permissible
14 purpose to obtain Plaintiff's consumer credit report and therefore Plaintiff is **entitled to**
15 **damages for breach of said duty.**

16 20. Plaintiff does not have an "account", as defined in 15 U.S.C. § 1683a(2), with said
17 Defendants and there is no evidence to the contrary.

18 21. FCRA in 15 U.S.C. §1681a(r)(4) states: The terms "account" and "electronic fund
19 transfer" have the same meanings as in section 1693a of this title.

20 22. (2) the term "account" means a demand deposit, savings deposit, or other asset account
21 **(other than an occasional or incidental credit balance in an open end credit plan**
22 **as defined in section 103(i) of this Act)**, as described in regulations of the Board,
23 established primarily for personal, family, or household purposes, but such term does
24 not include an account held by a financial institution pursuant to a bona fide trust
25 agreement;

COUNT 1
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT
(FDCPA) 15 U.S.C. § 1692

23. Paragraphs 1 through 22 are realleged as though herein set forth.

24. Defendants obtained Plaintiff's consumer credit report under false and misleading representations violating the FDCPA, 15 U.S.C. § 1692e(2).

25. Defendants used deceptive means in an attempt to collect an alleged debt by obtaining Plaintiff's consumer credit report violating the FDCPA § 1692e(10).

26. Defendants violated FDCPA, 15 U.S.C. § 1692 3(11) by failing to state the mini-Miranda warning on the latest communication.

27. Defendants utilized Unfair Practices in the attempt to collect an alleged debt therefore violating the FDCPA § 1692 f.

28. Defendants failed to adequately validate the alleged debt violating the FDCPA, § 1692g.

29. **WHEREFORE**, Plaintiff demands judgment for statutory damages of **\$1,000** from each Defendant under the FDCPA, 15 U.S.C. § 1692a(2)(A).

COUNT II
VIOLATION OF THE FAIR CREDIT REPORT ACT (FCRA), 15 U.S.C. § 1681
WILLFUL NON-COMPLIANCE BY SAID DEFENDANTS

30. Paragraphs 1 through 22 are realleged as though fully set forth herein.

31. Plaintiff, MAYFORD K. DAVIS, JR., is a consumer within the meaning of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(c).

32. Defendants are a furnisher of information within the meaning of the FCRA, 15 U.S.C. §1681s-2.

1 33. Equifax, Experian, and TransUnion are credit reporting agencies within the definition
2 of the FCRA, 15 U.S.C. § 1681a(f).

3 34. Consumer credit report is a consumer report as defined in the FCRA, 15 U.S.C. §
4 1681a(d).

5 35. Defendants violated FCRA, 15 U.S.C. § 1681b(a) as they have no permissible purpose
6 as outlined in the code which is an **egregious violation of Plaintiff's right to privacy**.

7 36. **WHEREFORE**, Plaintiff demands judgment for damages in the amount of **\$1,000 for**
8 **each violation** (total of \$12,000) with each credit reporting agency against each
9 Defendant for actual or statutory damages, punitive damages, **attorney's fees of \$3,000**
10 (see Tolentino v. Friedman, 46 F.3d 645, 651 (7th Cir.); Mace v. Van Ru Credit, 109
11 F.3d 338, 344 n.3 (7th Cir. 1997); Hyde v. Small, 123 F.3d 583, 585 (7th Cir. 1997)),
12 **and costs**, pursuant to 15 U.S.C. § 1681n.

13
14
15 **COUNT III**

16 **VIOLATION OF FAIR CREDIT REPORTING ACT (FCRA), 15 U.S.C. §1681**
17 **WILLFUL NON-COMPLIANCE BY GENERAL SERVICE BUREAU**

18 37. Paragraphs 1 through 22 are realleged as though fully set forth herein.

19 38. Plaintiff, MAYFORD K. DAVIS, JR., is a consumer within the meaning of the Fair
20 Credit Reporting Act, 15 U.S.C. § 1681a(c).

21 39. Defendants are furnishers of information within the meaning of the FCRA, 15 U.S.C.
22 §1681s-2.

23 40. Equifax, TransUnion, and Experian are credit reporting agencies within the definition
24 of the FCRA, 15 U.S.C. § 1681a(f).

25 41. Consumer credit report is a consumer report as defined in the FCRA, 15 U.S.C. §
26 1681a(d).

1 42. Defendant violated FCRA, 15 U.S.C. § 1681b(f)(2) as there was no proper
2 certification as required which is an **egregious violation of Plaintiff's right to**
3 **privacy.**

4
5 43. **WHEREFORE**, Plaintiff demands judgment for damages in the amount of **\$1,000 for**
6 **each violation** (total of \$12,000) with each credit reporting agency against Defendants
7 for actual or statutory damages, punitive damages, **attorney's fees of \$3,000** (see
8 Tolentino v. Friedman, 46 F.3d 645, 651 (7th Cir.); Mace v. Van Ru Credit, 109 F.3d
9 338, 344 n.3 (7th Cir. 1997); Hyde v. Small, 123 F.3d 583, 585 (7th Cir. 1997)), **and**
10 **costs**, pursuant to 15 U.S.C. § 1681n.

11
12 **COUNT IV**
13 **VIOLATION OF THE FCRA 15 U.S.C. § 1681o**
14 **NEGLIGENT NON-COMPLIANCE BY GENERAL SERVICE BUREAU**

15 44. Paragraphs 1 through 22 are hereby realleged as though set forth herein.

16 45. Defendants negligently failed to comply with the FCRA § 1681o by obtaining
17 Plaintiff's consumer credit report without permissible purpose as set forth in 15 U.S.C.
18 § 1681b(f).

19 46. **WHEREFORE**, Plaintiff demands judgment for each violation against Defendants
20 pursuant to 15 U.S.C. § 1681o, **attorney's fees of \$3,000**, (see Tolentino v. Friedman,
21 46 F.3d 645, 651 (7th Cir.); Mace v. Van Ru Credit, 109 F.3d 338, 344 n.3 (7th Cir.
22 1997); Hyde v. Small, 123 F.3d 583, 585 (7th Cir. 1997)), **costs**, and other such relief as
23 determined by the Honorable Court.

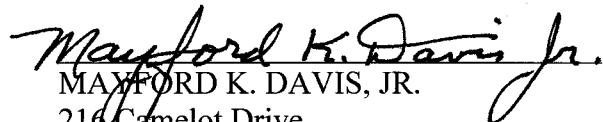
24
25 WHEREFORE, Plaintiff demands judgment against Defendants, ROBERT LEAVITT,
26 CHAIRMAN and GENERAL SERVICE BUREAU, for damages, statutory damages of
27 \$26,000, punitive damages where applicable, **attorney's fees of \$9,000**, **costs**, and other relief
28

1 as determined by the HONORABLE COURT pursuant to 15 U.C.S. § 1681n(a)(3), and §
2 1681o and 15 U.S.C. §1692k.

3
4
5 **DEMAND FOR TRIAL BY JURY**

6 Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

7 Respectfully submitted this 18th day of October, 2012.

8
9
10 
11 MAYFORD K. DAVIS, JR.
12 216 Camelot Drive
13 Weatherford, TX 76086
14 (817) 768-7459
15 mdcherokee44@gmail.com
16
17
18
19
20
21
22
23
24
25
26
27
28

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DAVIS, MAYFORD K., JR.

(b) County of Residence of First Listed Plaintiff **PARKER**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

ROBERT LEAVITT & GENERAL SERVICE BUREAU

County of Residence of First Listed Defendant **DOUGLAS**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

4-12CV-739-A

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
FCRA 15 USC 1681 & FDCPA 15 USC 1692

Brief description of cause:

WILLFULLY OBTAINING CREDIT REPORT NO PERMISSIBLE PURPOSE/REPORTING FALSE INFORMATION

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

35,000.00

CHECK YES only if demanded in complaint.

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S)

PENDING OR CLOSED:

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/18/2012

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

FW 018001

RECEIPT #

AMOUNT

\$350.00

APPLYING IFP

JUDGE

MAG. JUDGE